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ABSTRACT

To aid Oregon's school districts in developing policies and procedures for student conduct and discipline, this document suggests guidelines for district preparation and distribution of student conduct codes, including formal and informal student assembly, dress and grooming, use of motor vehicles, search and seizure, attendance, freedom of expression, use of tobacco, physical discipline, and suspensions and expulsions. Two appendices provide copies of Oregon state laws and administrative rules, covering student conduct and discipline, compulsory attendance, and other matters, from which school boards draw their authority to establish and enforce conduct codes. (JEH)

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STUDENT CONDUCT AND DISCIPLINE

1981

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EA 011 119

STUDENT CONDUCT AND DISCIPLINE

Oregon Revised Statutes
Oregon Administrative Rules
Suggested Guidelines
Suggested Codes

1981

Oregon Department of Education
700 Pringle Parkway SE
Salem, Oregon 97310

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FOREWORD

Pick up a newspaper or magazine these days and the big issue facing schools seems to be credibility—the community's belief in its school's ability to provide relevant education in a changing world. Education aims to offer the best programs possible: to do this, students need a learning environment which is free from disruption, which guarantees individual student rights and the right of all students to learn. Schools need firm but fair discipline policies. The school board, administration and staff, students, parents and other community members share in this responsibility for discipline, and it is through such alliances as this that our overall goal of excellence will be achieved—providing students with the best that education has to offer.

This document includes pertinent Oregon statutes and administrative rules, as well as suggested guidelines and codes for implementing district standards of conduct and discipline. It is the purpose of this publication to help districts develop standards of conduct and discipline which deal realistically and constructively with conduct and which, at the same time, ensure fair treatment for all concerned. Districts will want to consider these suggestions in light of district legal counsel and the concerns of all affected.

For further information, please contact the Student Services Section, 378-4923, or toll free in Oregon 1-800-452-7813.

Verne A. Duncan
State Superintendent
of Public Instruction

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Introduction

Courts have held generally that school officials have the authority to develop codes of conduct which provide for the orderly operation of the educational process without infringing upon the rights and privileges of those who must obey the codes.

School staff, students and parents all must assume responsibility for appropriate behavior in the school setting. Students should see the school as a symbol of opportunity, where rights and responsibilities are emphasized equally and human dignity protected.

Educational institutions can do much to eliminate conditions that produce student misconduct by spelling out in clear, concise language what student rights and responsibilities are and by developing clear rules for students which provide orderly and consistent procedures for handling misconduct.

Oregon law treats student conduct and discipline in Chapter 339 of Oregon Revised Statutes and in Oregon Administrative Rules 581-21-050 through 581-21-075. (See **Authority**, pages 11 to 13.)

Oregon Department of Education policies reflect a commitment to maintaining a school system in which every individual must share the rights and the responsibilities of government. School district policies also should reflect this commitment, by giving students opportunities to learn and exercise responsibility. The policies indicate the State Board of Education's acceptance of responsibility for adopting rules for the general governance of the schools which will create a climate that is free from discrimination, and is safe and healthy.

An aim of the Department of Education is that public schools shall help each student (1) to achieve maximum development of individual knowledge, skills, and competence, and (2) to learn and use behavior patterns which are characteristic of responsible, contributing members of society.

This publication has been prepared to aid local districts in developing policies and procedures which will provide:

(1) Equal opportunity and equal treatment for every student without discrimination.

(2) Conduct codes which exemplify fairness and reasonableness as required by due process.

(3) Consistency of discipline for all students.

(4) Student conduct which enables both school staff and students to do their best.

(5) Learning that takes place in an atmosphere of open communication, self-discipline, and clearly understood behavioral expectations.

Suggested Guidelines for District Preparation and Distribution of Code

(1) During preparation and revision of student conduct codes, districts should seek wide local input from students, teachers, administrators, community members, attorneys, and agencies of local government.

(2) Districts should have the benefit of legal research to assure that their codes comply with laws and ordinances.

(3) To avoid conflict, districts should review existing policies and procedures, including those which relate even indirectly to pupil conduct and discipline.

(4) Districts should in their procedures provide for regular review of their codes to assure that these codes continue to reflect local conditions, community attitudes, changes in the law and new court rulings.

(5) Since titles and assignments differ among districts, specific responsibilities for implementing various portions of the code must be spelled out clearly in local rules.

(6) Districts should give careful consideration to brevity, clarity, and readability.

(7) Codes should contain positive, rather than negative, rules and regulations.

(8) Districts should develop and implement a plan to make sure that each student receives a copy of the code and its revisions by:

(a) Enclosing materials in student registration packets.

(b) Mailing copies of the codes to each parent or guardian in the district.

(c) Placing codes on public bulletin boards.

(d) Distributing codes to news media.

(e) Establishing procedures which ensure that transfer students and their parents receive copies of the codes.

(9) District boards may wish to consider more than one code of pupil conduct and discipline because certain concerns for younger students may not be relevant to older students.

(10) If only one conduct code is used for a district, caution should be taken to make sure that students of all grade levels can understand it.

(11) Districts should take steps to ensure that all staff are kept up-to-date on code provisions.

Assembly of Students

Suggested Code

(1) Students shall be permitted to hold student meetings on school property.
(2) Students shall have the right to gather informally.
(3) Student meetings shall:
(a) Be scheduled in advance.
(b) Allow normal class activities to continue.
(c) Not create hazard to person or property.
(d) Be sponsored by school officials or an official school club or organization.
(e) Be preceded, if a crowd is anticipated, by filing of a crowd control plan in the principal's office well in advance of the meeting.
(4) Students who gather informally shall:
(a) Allow the orderly operation of the educational process to continue.
(b) Observe the rights of others to pursue their activities.

Comment

It is important to the orderly use of school facilities that the use of all space should be planned in advance whenever possible. Students, faculty, and administration are *all* in some measure responsible for the activities that are conducted in a school.

Dress and Grooming

Suggested Code

(1) Student dress and grooming is the responsibility of the student and parent under the following conditions:
(a) Dress and grooming shall be clean and consistent with health, sanitary, and safety practices.
(b) Dress and grooming shall not be such as to disrupt the teaching-learning process.
(c) When a student is participating in special activities, dress and grooming shall not disrupt the performance or constitute a health or safety hazard to the individual or other students.
(d) Provisions for dress and grooming in special activities should be appropriate to the needs of the activity and not arise from some undefined sense of individual taste.

Comment

Dress and grooming while in school is basically an individual responsibility of student and parent. When dress and grooming disrupt the learning process, it becomes a matter for discussion with the student and/or parent.

Motor Vehicles

Suggested Code

(1) Any licensed driver may drive a vehicle onto the school grounds under the following conditions:
(a) All vehicles driven onto the campus during the regular school day must be registered with the school administration.
(b) Students will be permitted to leave the school grounds during the hours in which school is in session only with permission from the school administration.
(c) Posted school rules, local and state traffic laws must be followed when operating vehicles on school grounds.
(2) Permission to drive a vehicle onto the school grounds may be revoked if the above rules are not followed.

Comment

Vehicle regulations are often necessary because of insufficient parking, dangerous traffic conditions and reckless driving habits of a few.

Search and Seizure

Suggested Code

(1) At the time of locker assignment or registration, students shall be informed of the conditions of use governing the locker.
(2) Students shall not use school lockers for storage of firearms or other possessions reasonably determined by the school authorities to be a threat to the safety or security of themselves or others. Students shall not conceal evidence of an illegal act or school violation.
(3) Illegal items, such as weapons, drugs, or other possessions reasonably determined by school authorities to be a threat to the safety or security of the possessor or others, may be seized by school officials.

Comment

The board, administration and staff seek to create a climate in the schools which assures the safety and welfare of all. Equipment, such as lockers, belongs to the school district, and students are allowed to use this equipment as a convenience. The school may insist that lockers be properly cared for and not used for the storage of illegal items.

Attendance*

Suggested Code

(1) The school shall make every effort to provide worthwhile educational experiences and to encourage full individual development for each student subject to the requirements of the compulsory

Comment

A fundamental purpose for insisting on punctual, regular school attendance is to help students develop habits of responsibility which will help them succeed now and in adult life. Irregular attendance

*See related statutes in Appendix B, pages 15 and 16.

school law (ORS 339.010-339.090).

(2) Counseling and/or home teaching will be provided for a student during long periods of illness.

(3) Attendance regulations shall be reasonable, enforceable, and shall consider the entire program of the school.

(4) Each student shall comply with the attendance rules and regulations of the school and shall pursue the prescribed course of study.

(5) Students shall be punctual in reporting to school and to classes and shall attend regularly.

is one of the factors associated with student failure and frustration with the school experience.

Freedom of Expression

Suggested Code

(1) Students are entitled to express their personal opinions under reasonable circumstances.

(2) Any publication supervised and/or sponsored in any way by the school shall be known as a school publication, as opposed to a student publication. Even though the publication may be accomplished by student effort, the student has a responsibility to the total school community. Libelous and profane or obscene matter are prohibited from all school publications. The school's duty to maintain the student's right to free speech, and its duty to educate pupils and protect the rights of all students, need careful consideration when either duty tends to conflict with the other.

(3) Written policies governing school publications will be followed.

(4) Students may refuse to participate in patriotic exercises as long as the manner of such nonparticipation does not disrupt the educational process.

(5) Students may wear certain distinctive insignias so long as they do not trespass on the rights of others or interfere with the orderly operation of the school program.

(6) Symbolic and actual freedom of expression shall not interfere with the freedom of others to express themselves.

(7) The use of profane or obscene language and threats of harm to persons or property are prohibited.

Comment

A basic tenet of schooling is to prepare students for responsible self-expression in a democratic society. Citizens in our nation are guaranteed free expression under the First and Fourteenth Amendments of the U.S. Constitution and under Article I, Section 8, of the Oregon Constitution. Students have the right to free expression and must bear the responsibility for the consequences of such expression.

Since schooling is a learning experience, the matter of free expression must also be viewed as a part of the learning process. Therefore, when school officials or their representatives have reason to believe that students are unaware of the possible consequences of their expression, they may find it necessary to review publications and speeches proposed by students and to advise them on matters of libel, slander, journalistic ethics and the probable effect of statements or writings on the orderly operation of the school.

Use of Tobacco

Suggested Code

(1) Oregon law currently is silent on who may use tobacco. Oregon law is clear, however, in stating that it is illegal to sell tobacco to an individual below the age of 18, as it is in fact endangering the welfare of a minor.

(2) The rights of nonusers must be weighed with the rights of users.

(3) The use of tobacco in any form is discouraged as a policy of the school district. However, if a district allows for the use of tobacco on school premises, only students 18 years of age or older may use tobacco, and then only at times and places designated by the district school board.

Comment

Wide differences of opinion are held by students, school officials, parents, smokers, and nonsmokers, about who should be allowed to use tobacco in public schools. Concerns are expressed in terms of scientific evidence that shows that the use of tobacco is hazardous to health. In addition, most public schools are not designed to accommodate large numbers of smokers. Health, safety, and educational concerns are all factors to be considered in regard to a school's tobacco policy.

Physical Discipline

Suggested Code

(1) Physical discipline as used here means spanking.

(2) Students shall be administered physical discipline only after less severe control measures have been found ineffective.

(3) Students have a right to know the nature of the offense for which they are being disciplined, and to a fair and reasonable physical discipline appropriate to the offense and age of the student.

(4)(a) The principal or designee shall administer physical discipline free from the presence of other students, but witnessed by a certificated staff member.

(b) A teacher shall administer physical discipline free from the presence of other students, but witnessed by the principal or designee.

(c) A student shall be given physical discipline only within the bounds of moderation and prudence suited to the gravity of the offense, and the physical condition and size of the student.

(d) A student may expect that physical discipline shall not be cruel or excessive, or administered wantonly from maliciousness or passion.

(e) A parent or guardian of a student receiving physical discipline may expect to be informed by the principal or designee of the occasion and type of discipline administered. A record of the event, signed by the person administering the punishment and the witness, will be placed in the student's behavioral record.

Comment

The district has the option to state in policy that there will be no physical discipline in the school.

School administrators and teachers are like parents in that they differ widely on their approach to student discipline, especially physical discipline. It is vital that the policymaking body of each school develop a clear statement on this subject to give guidance to all students, parents, and school personnel. It is reasonable to assume that actions a district board might authorize for use in grade 3 might not be used for grade 12.

If the school district chooses to authorize physical discipline, such discipline should be administered only after careful observation of students' rights.

Student Records*

Suggested Code

(1) All student records shall be confidential and shall be open for inspection only in accordance with the law and such rules and regulations as duly adopted by the district school board. Personnel having access to student records shall not violate the confidentiality of those records.

(2) Parents or eligible students have the right to challenge the content of their records. Parents or eligible students have a right to a hearing to raise objections concerning the content of those records.

(3) Parents or eligible students have a right to a copy of their records if they desire, but may be required to pay for the cost of the materials.

(4) Parents and students must be notified annually of their rights relating to student records.

(5) Information regarding students will not be provided. Directory information may be released by the school, however, if prior public notice has been given to students and parents. The student has the option to request that phone number and address remain unlisted. The following types of information are designated as directory information: the student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of athletic team members, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. The parent or eligible student may, by written notice to the school, prevent the school from publishing any or all such information relating to the student unless written consent is given prior to each release.

Comment

All public schools are required to keep certain records relating to their students. Local school board policies are required to control the use of such records in accordance with state and federal law. Progress records are required to be transferred to another educational institution upon notification of enrollment. Behavioral records may be transferred only upon request of the parent or guardian, or eligible student.

*See related statutes in Appendix B, pages 16 and 17.

Discipline-Suspension-Expulsion*

Suggested Code

(1) Definitions:

(a) *Summary Discipline* — Discipline for a minor infraction which may be handled without going through all the steps of formal procedure.

(b) *Disciplinary Re-assignment* — Temporary re-assignment of a misbehaving student to a separate supervised environment away from normal classroom activities.

(c) *Suspension* — Exclusion of a student from school for a period not to exceed seven days, or as provided in OAR 581-21-065 (7).

(d) *Expulsion* — Exclusion of a student from school attendance for a period of time not to extend beyond the current term or semester unless the semester ends within such a short period of time that the expulsion would be too short to be effective, but in no event to extend beyond the second term or semester.

(2) Fair treatment for students shall be such as to protect them from arbitrary and unreasonable decisions.

(3) All decisions affecting students shall be based on the careful and reasoned investigation of the facts and the consistent application of rules and regulations.

(4) All students shall be apprised of the rules and procedures by which schools are governed and the processes by which discipline will be exercised.

(5) Students shall comply with the rules for school government, pursue the prescribed courses of study, and submit to the lawful authority of teachers or school officials.

(6) The following types of conduct shall make a student liable for discipline, suspension and/or expulsion:

(a) *Disruption of school* — Any conduct that substantially disrupts a school function, or is likely to do so, is forbidden.

(b) *Damage to or theft of school property* — A student shall not cause or attempt to cause damage to school property, or steal or attempt to steal school property.

(c) *Damage to or theft of private property* — A student shall not cause or attempt to cause damage to private property, or steal or attempt to steal private property either on the school grounds or during a school activity, function or school event off school grounds.

(d) *Threats or assault on a school employee, another student, or other person not employed by*

Comment

All students deserve reasonable safeguards in the consideration of matters affecting their school life. Careful attention must be given to procedures and methods whereby fairness and consistency in disciplinary action shall be assured each student.

Teachers and administrators must use discretionary powers in invoking disciplinary actions and procedures, and in maintaining a climate conducive to learning and protection of life and property. School officials may find it necessary, occasionally, to discipline a student, to remove the student from the formal learning environment for a period of time, to place the student in an alternative program or to recommend other such action.

School disciplinary actions are civil, not criminal matters. Schools must present clear rules and procedures which assure fair treatment for each student in the learning environment.

*See related statutes in Appendix B, pages 15 and 16.

the school; weapons and dangerous instruments — A student shall not intentionally do bodily injury to any person or threaten any person, or knowingly possess, handle or transmit any object that can reasonably be considered a weapon at any event sponsored or supervised by the student's school.

(e) *Narcotics, alcoholic beverages, and drugs* — A student shall not knowingly possess, use, transmit, or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind:

1. On the school grounds.

2. Off the school grounds at a school activity, function or event.

Use of a drug authorized by a medical prescription from a registered physician for use *during* school hours shall not be considered a violation of this rule.

(f) *Other violations* — A student shall not repeatedly fail to comply with directions of teachers or other authorized school personnel during any period of time when that student is properly under the authority of the school. Students who do not respond to guidance or minor discipline, or are consistently at odds with school discipline, must accept the consequences of such action. Willful disobedience, open defiance of a teacher's authority, or the repeated use of profane or obscene language or gestures is also sufficient cause for discipline, suspension or expulsion from school.

(7) The use of grading procedures as a form of discipline is seldom justified unless clear written educational goals and objectives demonstrate that poor attendance automatically reduces student progress in a course of study or activity. At a minimum, any use of grade reduction as a form of discipline will be administered in compliance with the district's written policy on grading.

(8) Behavioral records related to discipline, suspension or expulsion of a particular student shall be maintained in the student's record for at least three years.

AUTHORITY [1]

Oregon Revised Statutes

PUPIL CONDUCT AND DISCIPLINE

339.240 Rules of pupil conduct and discipline; duties of state board and district school boards. (1) The State Board of Education in accordance with ORS 183.310 to 183.500 shall prepare and promulgate to all school districts minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements.

(2) Every district school board shall adopt and attempt to give the widest possible distribution of copies of reasonable written rules regarding pupil conduct, discipline and rights and procedures pertaining thereto. Such rules must comply with minimum standards promulgated by the State Board of Education under subsection (1) of this section.

339.250 Duty of pupil to comply with rules; discipline; alternate programs. (1) Public school pupils shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) The district school board may authorize the discipline, suspension or expulsion of any refractory pupil.

(3) Willful disobedience, open defiance of a teacher's authority or the use of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

(4) Expulsion of a pupil shall not extend beyond the current term or semester unless the semester ends within such a short period of time that the expulsion would be too short to be effective. However, the expulsion shall not extend beyond the second term or semester.

(5) When a pupil is expelled pursuant to subsection (2) of this section, or following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a pupil, or when it has been determined that a student's attendance pattern is so erratic that the student is not benefiting from the educational program, a district school board shall consider and propose to the pupil prior to expulsion and document to the parent, legal guardian or person in parental relationship alternative programs of instruction or instruction combined with counseling for the pupil.

(6) Upon receipt of written notice of intent to withdraw from the regular school program by a pupil 16 years of age or over for reasons other than enrolling in another educational program, a district school board shall propose to the pupil and document to the parent, legal guardian or person in parental relationship alternative programs of instruction and counseling or regular program instruction combined with counseling for the pupil.

339.260 Injury to school property by pupil. (1) No pupil shall wilfully damage or injure any school property or threaten or wilfully injure any fellow pupil or faculty member.

(2) A pupil who violates subsection (1) of this section may be disciplined, suspended or expelled.

Oregon Administrative Rules

Student Conduct and Discipline

Minimum Standards for Student Conduct and Discipline

581-21-050 (1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

(a) Assembly of students;
(b) Dress and grooming;
(c) Motorized and nonmotorized vehicles;
(d) Search and seizure;
(e) Attendance;
(f) Freedom of expression;
(g) Alcohol, drugs, and tobacco;
(h) Physical discipline;
(i) Student records;
(j) Discipline, suspension, and expulsion.

(2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

Standards of Conduct

581-21-055 (1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful au-

[1] Statutes and rules in effect April 1, 1981.

thority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

(a) Theft;

(b) Disruption of the school;

(c) Damage or destruction of school property;

(d) Damage or destruction of private property on school premises or during a school activity;

(e) Assault or threats of harm;

(f) Unauthorized use of weapons or dangerous instruments;

(g) Unlawful use of drugs, narcotics, or alcoholic beverages;

(h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

Procedures

581-21-060 (1) School district boards shall establish fair and reasonable procedures for discipline, suspension, or expulsion.

(2) Those local district boards that choose to allow physical discipline shall develop written procedures and controls which provide reasonable protection for students, parents, and school personnel.

Suspension

581-21-065 (1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (581-21-075) specification of charges, and all opportunity for the student to present his view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.

(2) Emergency situations shall be limited to those instances where there is a serious risk that substantial harm will occur if suspension does not take place immediately.

(3) School district boards shall provide students suspended under emergency conditions with the rights outlined in section (1) of this rule as soon as the emergency condition has passed.

(4) In all suspensions ordered by the executive officer of the school district or his designated representative, the district school board shall have the right of final review if the action is not taken by the school board itself.

(5) School district boards shall limit suspension to a specific maximum number of days. That maximum shall not exceed seven calendar days.

(6) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up.

(7) In special circumstances a suspension may be continued until some specific pending action occurs, such as a physical or mental examination, or incarceration by court action.

Expulsion

581-21-070 (1) A school district board may expel, or delegate authority to a hearings officer to expel, a student provided the student is not expelled without a hearing unless the student's parent(s) or guardian, or the student, if 18 years of age, waives the right to a hearing. Waiver may take place by the parent or the student, if 18 years of age, notifying the school district in writing of waiver of the right to a hearing. Waiver may also take place by the parent, or the student if age 18 or over, failing to appear after notice, at the place and time set for the hearing.

(a) If the school board acts to expel, the hearing may be conducted by a hearings officer designated by the board. In cases where the hearings officer is conducting the expulsion hearing for the board, the hearings officer shall provide to the board the findings as to the facts, the recommended decision and whether or not the student is guilty of the conduct alleged. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over.

(b) If the authority to expel a student is delegated to a hearings officer, the parent, or student, if age 18 or over, shall have the right upon appeal to a board review of the decision. If the decision is appealed to the board for review, the board shall be provided findings as to the facts and the decision of the hearings officer. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over. When appealed, the board will affirm, modify, or rescind the decision of the hearings officer.

(2) Student expulsion hearings shall be conducted pursuant to ORS 332.061.

(3) Expulsion hearing policies or rules shall contain provisions for the following:

(a) Notice to the student and to the parent or guardian shall be given by personal service or certified mail of the charge or charges and the specific facts that support the charge or charges. The notice shall include the statement of intent to consider the charges as reason for expulsion. Where notice is given by personal service, the person serving the notice shall file a return of service. Where notice is given by certified mail to a parent of a suspended student the notice shall be placed in the mail at least 5 days before the date of the hearing.

(b) Where the student or the student's parent cannot understand the spoken English language, an interpreter shall be provided by the district.

(c) The student may be represented by counsel or other persons.

(d) The student shall be permitted to introduce

evidence by testimony, writings, or other exhibits.

(e) The student shall be permitted to be present and hear the evidence presented by the district.

(f) Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer's control of the hearing.

(g) The hearings officer or the student may make a record of the hearing.

Distribution

581-21-075 (1) School district boards, or designated representatives, shall attempt to give widest possible distribution to their rules of pupil conduct and discipline in order that students may understand the expectations of the district.

(2) School districts shall make reasonable attempts to give a copy of their current rules to each student, and a copy of the current rules shall be posted in a prominent place in the schools of the district.

(3) School districts shall make these rules available to the general public upon request.

Related Oregon Revised Statutes

Compulsory School Attendance

339.010 School attendance required; age limits. Except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides.

339.020 Duty to send children to school. Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term.

339.030 Exemptions from compulsory school attendance. In the following cases, children shall not be required to attend public full-time schools:

(1) Children between the ages of 16 and 18 years who are lawfully employed full time, who are lawfully employed part time and in school part time, who are attending a community college, or are engaged in activities equivalent to the preceding.

(2) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools.

(3) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(4) Upon determination pursuant to criteria of the State Board of Education that a child is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or the health of others, the public schools shall provide the child either home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the State Board of Education unless such child is receiving suitable instruction in a state or regional facility or institution.

(5) Children between the ages of 7 and 10 years whose parents live more than one and one-half miles, and children over 10 years of age whose parents live more than three miles, by the nearest traveled road, from some public school and for whom the school district does not provide transportation over the distances specified in this subsection.

(6) Children being taught for a period equivalent to that required of children attending public schools by a parent or private teacher the courses of study usually taught in grades 1 through 12 in the public school.

(a) Before the children are taught by a parent or private teacher, the parent or teacher must receive written permission from the executive officer of the resident school district. The permission shall not extend beyond the end of the school year in which permission is granted. If permission is not granted, the person having legal custody of the children may appeal the decision to the school board of the resident district.

(b) Children being taught by a parent or private teacher must be examined in the work covered. Such examinations shall be prepared by the State Board of Education and provided to school districts upon request. If the executive officer of the administrative office determines after examination that the children are not being taught properly, he shall order the person having control of the children to send them to school for the remainder of the school year.

(7) Children excused by the district school board of the district in which the children reside. The district school board has authority to excuse a child from compulsory attendance if the child has completed the first eight grades.

(8) Children excluded from attendance as provided by law.

(9) Children between the ages of 16 and 18 years who have the mutual consent of the school administration and the parent or other individual having custody or legal guardianship over a child.

339.040 Attendance supervisors; appointment; compensation. (1) The executive officer of the administrative office for the county shall appoint one person to act as the attendance supervisor for school districts having a school census of less than 1,000 children in the county. The attendance supervisor shall perform his duties under the direction of the administrative office for the county. The attendance supervisor shall receive as compensation for services a sum fixed by the governing body of the county and allowed and paid in the same manner as the salaries of county officers are paid.

(2) District school boards of districts having a school census of 1,000 or more children, according to the latest school census, shall appoint attendance supervisors and fix and pay their compensation.

(3) The administrative office for the county, upon written application from the district school board in any school district having a school census of more than 200 and less than 1,000 children, according to the latest school census, shall grant such district permission to appoint attendance supervisors and fix their compensation and pay.

(4) For purposes of the appointment and duties of attendance supervisors, the territory in a joint school district shall be considered part of the county in which the administrative office of the joint district is located.

339.055 Duties of attendance supervisors. The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090. [Formerly 339.100]

339.065 Estimates of attendance; irregular attendance; excused absences. (1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.145, 339.410, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2) An absence may be excused by a principal or teacher if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency. A principal or teacher may also excuse absences for other reasons where satisfactory arrangements are made in advance of the absence.

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends.

339.080 Nonattendance notice to parents and school officials. (1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under his control to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person. The notice shall state that the child must appear at the public school on the next school day following the receipt of the notice. The notice shall inform the parent or other person that regular attendance at school must be maintained during the remainder of the school year.

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the city superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.

339.090 Determination of compliance with notice. The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If he determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall make a complaint alleging the parent or other person's refusal or neglect to send the child to school. The complaint shall be made before a court having jurisdiction over misdemeanors committed within the county in which the parent or other person resides. The judge shall issue a warrant upon the complaint and shall proceed to hear and determine the matters alleged in the complaint in the same manner he hears and determines other cases under his jurisdiction.

Student Records

336.185 Definitions for ORS 336.185 to 336.215. For purposes of ORS 44.040 and 336.185 to 336.215, the following definitions will apply:

(1) "Student records" include all records relating to students maintained by any elementary, secondary school or education service district.

(2) "Student behavioral records" are student records which include psychological tests, personality evaluations, records of conversations and any written transcript of incidents relating specifically to student behavior.

(3) "Student progress records" are student records which include transcripts of grades and courses taken, records of attendance, tests relating specifically to achievement or measurement of ability, and records of health.

(4) "Superintendent" means the highest ranking administrative officer in a school district or an educational institution, or in the absence of the superintendent, the person designated to fulfill the functions.

(5) "Board" means the board of directors of a school district or other educational institution.

336.195 Student records confidential; rules for inspection or release. (1) All student records maintained by a school, educational institution or education service district shall be confidential, and except as hereinafter provided shall be open for inspection only in accordance with such rules as the board shall adopt.

(2) The board shall establish rules to provide that all student records maintained by any elementary or secondary school in the district shall be available for inspection by any parent or legal guardian requesting to see such records; however, student behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records.

(3) Release of student behavioral records for use in any proceedings, civil or criminal, in any court of this state shall be made only by the superintendent or a designated representative, or with the consent of the student or juvenile so confiding or to whom such records relate, if the student is 18 years of age or over, or if the person is a minor, with the consent of the parent or legal guardian of the person. Release shall be made only in the presence of an individual qualified to explain or interpret the records.

(4) Student progress records shall be available to all teaching staff, parents, legal guardians or surrogate service district shall be confidential, and except as hereinafter provided shall be open for inspection only in accordance with such rules as the board shall adopt.

(2) The board shall establish rules to provide that all student records maintained by any elementary or secondary school in the district shall be available for inspection by any parent or legal guardian requesting to see such records; however, student behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records.

(3) Release of student behavioral records for use in any proceedings, civil or criminal, in any court of this state shall be made only by the superintendent or a designated representative, or with the consent of the student or juvenile so confiding or to whom such records relate, if the student is 18 years of age or over, or if the person is a minor, with the consent of the parent or legal guardian of the person. Release shall be made only in the presence of an individual qualified to explain or interpret the records.

(4) Student progress records shall be available to all teaching staff, parents, legal guardians or surrogate parents.

336.215 Transfer of student records to other schools or districts. (1) Any school, educational institution or education service district shall transfer to any other school, educational institution or education service district all student progress records relating to a particular individual provided that they have received notice of the student enrolling in the school or institution.

(2) Any private school, as defined in ORS 345.505, must promptly transfer to any other school, educational institution or education service district all student progress records relating to a particular student upon receipt of notice of the student's enrollment in the other school or institution.

Confidential Communications

44.040 Confidential communications. (1) There are particular relations in which it is the policy of the law to encourage confidence, and to preserve it inviolate; therefore a person cannot be examined as a witness in the following cases:

. . . (i) A certificated staff member of an elementary or secondary school shall not be examined in any civil action or proceeding, as to any conversation between the certificated staff member and a student which relates to the personal affairs of the student or family of the student, and which if disclosed would tend to damage or incriminate the student or family. Any violation of the privilege provided by this paragraph may result in the suspension of certification of the professional staff member as provided in ORS 342.175, 342.177 and 342.180.

. . . (k) A certificated school counselor regularly employed and designated in such capacity by a public school shall not, without the consent of the student, be examined as to any communication made by the student to the counselor in the official capacity of the counselor in any civil action or proceeding or a criminal action or proceeding in which such student is a party concerning the past use, abuse or sale of drugs, controlled substances or alcoholic liquor. Any violation of the privilege provided by this paragraph may result in the suspension of certification of the professional school counselor as provided in ORS 342.175, 342.177 and 342.180. However, in the event that the student's condition presents a clear and imminent danger to the student or to others, the counselor shall report this fact to an appropriate responsible authority or take such other emergency measures as the situation demands.

Expulsion Hearing

332.061 Hearing to expel minor students; exceptions to public meetings law. Notwithstanding ORS 192.610 to 192.690 governing public meetings:

(1) Any hearing held by a district school board or its hearings officer on the matter of expulsion of a minor student from a public elementary or secondary school shall be conducted in executive session of the board or privately by the hearings officer unless the student or the student's parent or guardian requests a public hearing.

(2) If an executive session is held by a district school board or a private hearing is held by its hearings officer under this section, the following shall not be made public:

(a) The name of the minor student.

(b) The issue.

(c) The discussion.

(d) The school board member's vote on the issue.

(3) The school board members may vote in an executive session conducted pursuant to this section.

Student Conduct and Discipline

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